



## Minutes Formal City Council Meeting November 1, 2012

Minutes of the Formal Council Meeting of Thursday, November 1, 2012, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Tempe City Hall, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

### **COUNCIL PRESENT:**

Mayor Mark W. Mitchell  
Councilmember Robin Arredondo-Savage  
Councilmember Kolby Granville  
Councilmember Corey D. Woods

Vice Mayor Onnie Shekerjian  
Councilmember Shana Ellis  
Councilmember Joel Navarro

### **STAFF PRESENT:**

Charlie Meyer, City Manager  
Andrew Ching, City Attorney  
Lisa Collins, Interim Community Development Director

Jeff Kulaga, Assistant City Manager  
Brigitta M. Kuiper, City Clerk  
Various Department Heads or their representatives

Mayor Mitchell called the meeting to order at 7: 39 p.m.

1. Councilmember Ellis gave the invocation.
2. Mayor Mitchell led the audience in the **Pledge of Allegiance**.

### **3. MINUTES**

#### **A. Approval of Council Meeting and Council Committee Meeting Minutes**

**Motion by Councilmember Granville to approve the following COUNCIL MEETING AND COUNCIL COMMITTEE MEETING MINUTES; second by Councilmember Woods. Motion passed unanimously on a voice vote 7-0.**

1. Formal City Council Meeting - July 2, 2012, September 6, 2012, September 20, 2012 and October 4, 2012

#### **B. Acceptance of Committee, Board & Commission Meeting Minutes**

**Motion by Councilmember Granville to accept the following COMMITTEE, BOARD AND COMMISSION MEETING MINUTES; second by Councilmember Ellis. Motion passed unanimously on a voice vote 7-0.**

1. Enhanced Services Commission - April 11, 2012
2. Development Review Commission - September 11, 2012 and September 25, 2012
3. Municipal Arts Commission - September 12, 2012
4. Hearing Officer - October 2, 2012
5. Mayor's Youth Advisory Commission - October 2, 2012

### **4. REPORTS AND ANNOUNCEMENTS**

#### **A. Mayor's Announcements – None.**

B. Manager's Announcements – None.

5. **AGENDA**

All items in these minutes identified with an asterisk (\*) **are public hearing items**. All items listed on the agenda are approved with one City Council action. Items scheduled for Introduction/First Public Hearing will be heard but not adopted at this meeting. Items scheduled for Second Public Hearing/Final Adoption will be voted upon at this meeting.

Mayor Mitchell announced consideration of the **AGENDA** items.

**Motion by Councilmember Woods to approve the Agenda with the exception of items 5B4, 5D2A, and 5D2B, which were removed for separate consideration, and items 5C1 and 5D3, which had been removed/deleted from the agenda; second by Councilmember Arredondo-Savage. Motion passed on a roll call vote 7-0.**

A. Miscellaneous Items

- \*A1. Held a public hearing and recommended the approval of a Series 10 beer and wine store liquor license for Sunflower Farmers Markets, LLC, dba Sprouts Farmers Market #20, 1706 East Southern Avenue, #1706.

*Fiscal Impact:* N/A

- A2. Clarified Ordinance No. 2012.21, specifying abandonment of the public utility easements on the north side of the parcel located on the southeast corner of 8th Street and Rural Road as previously approved by Council.

*Fiscal Impact:* N/A

B. Award of Bids/Contracts

- B1. Approved the second agreement between Competitor Group, Inc. a California Corporation, The Tempe Convention & Visitors Bureau and the City of Tempe to host the start of the Rock N Roll Half Marathon, and finish line of both the Marathon and Half Marathon. (**Contract 2012-177**)

*Fiscal Impact:* Tempe and the Tempe Convention and Visitors Bureau (TCVB) will share costs associated with this agreement based upon previous agreements with Council and TCVB board approvals. Sufficient City funds has been appropriated in Community Services cost center 2522 (General Fund) for the potential \$90,000 direct expenditures. In-kind City services values at \$104,000 are met through participating department's general fund cost centers (Solid Waste 3722, Tempe Police 2276, Tempe Fire 2342, Traffic Operations 3826, Custodial 3289).

- B2. Approved an addendum to a professional services contract with Wilson Engineers, LLC for water quality upgrades at the South Tempe Water Treatment Plant.

*Fiscal Impact:* Total amount of the addendum is not to exceed \$285,890. Approval of this addendum will bring the original contract amount of \$1,502,510 up to a total contract amount of \$1,788,400. Approval was given by City Council on October 18, 2012, to reallocate \$1,200,000 in fiscal year 2012-13 from Capital Improvement Program Fund No. 3201099, Johnny G. Martinez Water Treatment Plant, to Fund No. 3203211, South Tempe Water Treatment Plant Improvements. The total fiscal year 2012-13 Capital Improvements budget for the Public Works Department has not been increased as a result of this reallocation.

- B3. Awarded job order no. 12 to Foresite Design & Construction, Inc. for replacement of the hot water system at Tempe Diablo Stadium.

**Fiscal Impact:** Total contract amount is \$142,428 and project contingency amount is \$14,000. Funds were approved and appropriated for fiscal year 2012/2013 in Capital Improvement Fund No. 6705229, Water Heater Replacement Program, and will be transferred to Fund No. 6705221, Tempe Diablo Stadium Hot Water System Replacement, to fund this contract.

- B4. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Award job order no. 11 to Caliente Construction, Inc. for restoration of a portion of the existing restaurant space at the City-owned 525 South Mill Avenue building.

- B5. Approved the Agreement with Tempe Union High School District authorizing the City to use High School facilities for the purpose of community education classes. (**Contract 2012-178**)

**Fiscal Impact:** The City shall pay the District thirty percent (30%) of gross revenue received by the City for community education programming. The thirty percent (30%) will be used to fund District-assigned staff and serve as facility rental. All City of Tempe adult community programming is at a cost recovery rate. Funds to pay the district the thirty percent (30%) of revenues received are appropriated in Community Services 2012-13 operating budget in cost center 2524.

- B6. Awarded a single purchase contract to Cobra Power Systems, Inc. for the purchase of towable generators to be used by the Tempe Fire Department. (**Contract 2012-179**)

**Fiscal Impact:** Total cost of the three generators will not exceed \$106,000, however, there is no cost to the City; a State Homeland Security Grant (SHSGP) will cover the acquisition cost. The City of Tempe was the originator of the grant application made on behalf of the All Hazards Incident Management Team (AHIMT) which includes Tempe, Phoenix and Glendale. As the grant originator, Tempe has the responsibility to solicit the items, review submittals, issue the contract, make payment for the delivered units, distribute items to the participating agencies and seek reimbursement from SHSGP.

C. **Ordinances and Items for Introduction/First Hearing - These items will have two public hearings before final Council action**

- \*C1. **THIS ITEM WAS REMOVED/DELETED FROM THE AGENDA.** ~~Introduce and hold a public hearing to adopt an ordinance abandoning an existing public utility easement over a portion of the 8th Street alignment, east of Rural Road and south of University Drive. The second public hearing is scheduled for November 15, 2012. (Ordinance No. 2012.54)~~

D. **Ordinances and Items for Second Hearing/Final Adoption**

- \*D1. Held the second and final public hearing and adopted **ORDINANCE NO. 2012.48** abandoning an existing sewer easement and temporary easements recorded in Docket 5147, Pages 368-369, office of the Maricopa County Recorder.

**Fiscal Impact:** N/A

- \*D2A. THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Hold the second and final public hearing to adopt an ordinance for a Zoning Map Amendment from Agricultural District to MU-3, Mixed-Use Medium-High Density District, and a Planned Area Development Overlay, consisting of a new 3-story, 590 unit multi-family development for SOUTHWEST TEMPE REZONE located at 9010 South Priest Drive. The applicant is Huellmantel & Affiliates. (Ordinance No. 2012.49A)
- \*D2B. THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Hold the second and final public hearing to adopt an ordinance for a Zoning Map Amendment from Agricultural District to General Industrial District for SOUTHWEST TEMPE REZONE located at 9010 South Priest Drive. The applicant is Huellmantel & Affiliates. (Ordinance No. 2012.49B)
- \*D3. THIS ITEM WAS REMOVED/DELETED FROM THE AGENDA.** ~~Hold the second and final public hearing to adopt an ordinance for the historic designation of HAYDEN FLOUR MILL & SILOS, located at 119 South Mill Avenue. The Applicant is the Tempe Historic Preservation Officer. (Ordinance No. 2012.50)~~

**E. Resolutions**

- E1.** Adopted **RESOLUTION NO. 2012.114** authorizing the Mayor to execute the Subgrant Award Agreement between the Arizona Department of Homeland Security and the City of Tempe for the purpose of accepting and spending a federal grant for the purpose of sustaining the Tempe Fire Department's Terrorism Liaison Officer.

**Fiscal Impact:** The amount of the grant award is \$6,720 in federal funds. Acceptance of this grant does not require any matching City funds. This grant award will supplement the Fire Department's existing General Fund budget appropriation. Sufficient budget appropriation for expenditure of this grant was authorized in the Governmental Grants and Donations Fund (Fund 46) as part of the fiscal year 2012-13 adopted budget.

- E2.** Adopted **RESOLUTION NO. 2012.115** authorizing the Mayor to execute the Subgrant Award Agreement between the Arizona Department of Homeland Security and the City of Tempe for the purpose of accepting and spending a federal grant for the purpose of sustaining the Tempe Fire Department's component of the Rapid Response Team.

**Fiscal Impact:** The amount of the grant award is \$66,560 in federal funds. Acceptance of this grant does not require any matching City funds. This grant award will supplement the Fire Department's existing General Fund budget appropriation. Sufficient budget appropriation for expenditure of this grant was authorized in the Governmental Grants and Donations Fund (Fund 46) as part of the fiscal year 2012-13 adopted budget.

- E3.** Adopted **RESOLUTION NO. 2012.116** authorizing the Mayor to execute the Subgrant Award Agreement between the Arizona Department of Homeland Security and the City of Tempe for the purpose of accepting and spending a federal grant for the purpose of providing training for the Tempe Fire Department's Community Emergency Response Team.

**Fiscal Impact:** The amount of the grant award is \$4,000 in federal funds. Acceptance of this grant does not require any matching City funds. This grant award will supplement the Fire Department's existing General Fund budget appropriation. Sufficient budget appropriation for expenditure of this grant was authorized in the Governmental Grants and Donations Fund (Fund 46) as part of the fiscal year 2012-13 adopted budget.

- E4.** Adopted **RESOLUTION NO. 2012.117** authorizing the Mayor to execute the Grant Award Agreement between the Higgins Family Charitable Foundation and the City of Tempe, for the purpose of accepting and spending grant funds to purchase ballistic shields and computers for the crime analysis.

**Fiscal Impact:** The amount of the total grant award is \$25,000. Sufficient budget appropriation for expenditure of this grant was authorized in the Police Department Racketeering Influenced and Corruption Organizations Act (RICO) and Grants Fund (Fund 45) as part of the FY 2012-13 adopted budget

**AGENDA ITEM(S) REMOVED FOR SEPARATE CONSIDERATION:**

- B4.** Awarded job order no. 11 to Caliente Construction, Inc. for restoration of a portion of the existing restaurant space at the City-owned 525 South Mill Avenue building.

**Fiscal Impact:** Total contract amount is \$114,607 and project contingency amount is \$11,000. To date, insurance proceeds in the amount of \$63,000 have been paid by the existing tenant toward the City's portion of the restoration as payment for the damaged City building. The remainder of this job order will be funded by Capital Improvement Fund No. 6799779, Emergency Capital Repair. Sufficient funds were approved and appropriated for fiscal year 2012/2013 and will be transferred to Fund No. 6705391, 525 Building Tenant Repairs, to fund the remainder of this job order.

Councilmember Granville asked for an explanation as to the tenant's obligation to cover the total loss of the building or the interior space, and the City's requirements as landlord. Andrew Ching, City Attorney, responded as follows: the lease agreement requires the tenant to provide insurance for the property; the tenant has paid approximately \$63,000. The additional amount is to bring the electrical system up to the current building and electrical codes, which is the City's responsibility, and also to restore the building shell. The damage caused to the City's building is reflected in the amount of the insurance proceeds that the City has collected.

**Motion by Councilmember Granville to approve item 5B4; second by Councilmember Woods. Motion passed on a roll call vote 7-0.**

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- \*D2A.** Held the second and final public hearing and adopted **ORDINANCE NO. 2012.49A** for a Zoning Map Amendment from Agricultural District to MU-3, Mixed-Use Medium-High Density District, and a Planned Area Development Overlay, consisting of a new 3-story, 590 unit multi-family development for SOUTHWEST TEMPE REZONE located at 9010 South Priest Drive. The applicant is Huellmantel & Affiliates.

**Fiscal Impact:** While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

*The following conditions of approval apply:*

1. A building permit shall be obtained on or before November 1, 2014, or the zoning of the property may revert to that in place at the time of application, subject to a public hearing.
2. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, the Owner(s) voluntarily waives any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the

Community Development Department no later than November 31, 2012 (effective date of ordinance), or the Planned Area Development Overlay and Zoning Map Amendment approval shall be null and void.

3. The Planned Area Development Overlay shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development Department prior to issuance of building permits.

Charles Huellmantel, applicant representative, requested to wait for public input prior to making statements. Mayor Mitchell opened the public hearing.

Joy Anderson, Tempe, stated her opposition to the project for the following reasons: density; height; traffic concerns including the width of Priest Drive and no traffic lights to allow residents out of Sierra Tempe at Lisa Lane, Stacey Lane, or at Beck Avenue; increased traffic; no bike lane north of Knox Road on Priest Drive; she also asked whether business access would be onto Warner Road or Priest Drive.

Mark Pendleton, Tempe, stated his support of the project for the following reasons: aging neighborhoods; lack of vacant land for single family residences; need to invest in residences that attract young professionals instead of office buildings; aging population so schools will need children.

Brad Gabel, Tempe, stated his support of the project for the following reasons: developer willing to develop under-producing property in the heart of the recession; development will produce taxes. He feels the traffic issues need to be addressed.

Stanley Laing, Tempe, stated his support of the project for the following reasons: aging population; need for younger people to move into Tempe and to support retail; sales taxes benefit everyone.

Richard Anglin, Tempe, stated his support of the project for the following reasons: well-done project; helps the area and restaurants. He stated that his brother is also present and in favor of the project.

Tim Noble, Tempe, made the following comments regarding the project: look at the traffic on Ray Road, Warner Road and Priest Drive; traffic backs up at the interchange going onto I-10; traffic backlog on Priest Drive when the freeway is closed; stoplight not needed; turning right to access the freeway from Ray Road will add 15 minutes to the morning commute and no one will do that. He also expressed concern about building height and getting an access road onto Warner Road. He noted that the plans for the project's entrance allows for a left-hand turn, and requested that if the traffic is routed to the right, the project should be built to force a right-hand turn.

Mike Myrick, Tempe, stated his support of the project for the following reasons: Mark-Taylor is a good developer; need for this type of project in south Tempe; returning students, young professionals, and people going through divorces need to be able to rent; multi-family is needed.

Chris Cottrell, Tempe, stated his support of the project for the following reasons: good for the City to grow in a thoughtful way; challenges have all been addressed to his satisfaction; opportunity to bring in new students to Tempe schools; opportunity to bring in young professionals and families; Mark-Taylor is a high-quality builder.

Tony Crump, owner of a restaurant at Warner Road and Priest Drive, stated his support of the project for the following reasons: traffic, emergency services, and schools have been addressed; development creates construction jobs; creates long-term property management jobs; increased traffic means more sales for businesses; commercial real estate sitting empty in the area; being land-locked, high-density housing is the way to go; something big will go into the northwest corner of Warner Road and Priest Drive; right project for the economy.

Chris Busch, Tempe, stated her support of the project for the following reasons: keep families living in Tempe and support businesses and schools; development provides another housing choice for young workforce or for aging baby boomers.

Eric Emmert, Tempe, speaking on behalf of Sierra Tempe Number 4, made the following comments regarding the project: HOA Board met and agreed that the development meets the General Plan, that Mark-Taylor provides a good product, and asked how to mitigate the impact to the community. The applicant has been responsive; would like to see efforts made to try to access Hall Drive to allow traffic onto Warner Road.

Kim Lahn, Tempe, stated her opposition to the project for the following reasons: negative impact to property values; increased crime; quality of life will suffer; Mark-Taylor is currently working on three developments in Tempe, with this being the largest; moved to south Tempe to get away from high-density housing; traffic; school in the neighborhood is packed; pathway will be connected to the existing neighborhood pathway and will result in additional foot traffic in the neighborhood. She requested that the building height be reduced to two stories instead of three.

Fred Lahn, Tempe, stated his opposition to the project for the following reasons: medium-density; already apartments along Baseline Road from 48<sup>th</sup> Street to Chandler with hotels to the east; apartments all around the area; ratio of apartments becoming higher than the ratio of houses, not a good mixture.

Neil Cohen, Tempe, stated his support of the project for the following reasons: lived in apartments in Tempe; there are no new apartments in Tempe; high-end apartment homes will bring residents to Tempe; will add to the sales tax base; the area is safe; new customers for the businesses in the area.

Mayor Mitchell closed the public hearing.

Charles Huellmantel, applicant representative, made the following closing comments:

- Proud of the project and the developer's reputation; approximately 50 letters of support and additional petitions.
- Some of the closest neighbors support the project and the work done to resolve some of the issues.
- Staff supports the project; the Development Review Commission approved the project.
- Updated traffic report was provided in the City Council's meeting packet; willing to put a traffic light in if required.
- Developer works with Police Departments to prevent crimes before they happen; the development will be safe, with controlled access, and the property will be well-maintained.
- Occupancy in Mark-Taylor developments is high; the people will spend money in neighborhood stores and restaurants.

The City Council and Mr. Huellmantel discussed the following:

- The deceleration lane was suggested by Mr. Emmert as a mitigating factor; the deceleration lane was approved by the City's Traffic Engineer, and was added as a stipulation offered at the Development Review Commission to solve the traffic issue.
- Access on Warner Road is problematic because it will require crossing a Salt River Project canal and because land would need to be acquired from a developer adjacent to the canal; there will be two access points for pedestrians along the canal and the pathways.
- Mr. Huellmantel is not aware of the neighborhood path that was mentioned by Ms. Lahn during the public hearing.
- The average rental rate will be approximately \$1,100 per month; the average household is expected to be in excess of \$80,000 per household.
- The perception is that all apartments are equal; Mark-Taylor thinks of itself as the industry standard. There is a lot of time spent building and maintaining the communities; careful about individuals that rent to make sure that people living in the communities are abiding by the rules. Mark-Taylor is skilled at community management.
- Suggestion that the community look into becoming a neighborhood association.

The City Council, Lisa Collins, Interim Community Development Director, and Mr. Huellmantel continued the discussion:

- The General Plan zoning designation is mixed-use; the density portion of the General Plan allows for up to 25 dwelling units per acre. The applicant could have brought in a single piece of property and built a multi-

- family residential or combine the property with other properties that have commercial-type uses.
- Mixed-use anticipates multiple types of land uses, of which residential is one; due to the mixed-use designation, the City would have required some type of residential use on the property.
- The two different zoning classifications would not have been any different for the product development.
- The City's parking ordinance has general categories that address all types of land uses; portions of the ordinance recognize that different developments may have unique parking requirements. This development has a 9% parking reduction. Developers are required to go through studies each time that a variation is requested. Staff will look at parking requirements for multi-family residential in the parking ordinance.

Andrew Ching, City Attorney, clarified that in regards to the mixed-use zoning, the applicant has reserved a second site directly south of the proposed development, for future office use. Mr. Huellmantel confirmed that the second use is an office use at the southern-most part of the site.

Other discussion points included:

- There will be a positive impact on the community from the development, including on retail sales; the project enhances an area of the City that needs enhancement.
- The concerns on traffic and crime can be solved by Mark-Taylor and Mr. Huellmantel; safe neighborhoods are a top priority.
- In 2003, the voters approved the General Plan 2030; the General Plan calls out for a mixed-use on the property. The parcel to the south is a business-type campus and is in line with the voter-approved General Plan.
- Mark-Taylor communities are high-quality apartments that include granite countertops, stainless-steel appliances and garages.
- Additional residents that spend sales tax dollars in Tempe benefit the entire community; projects enhance existing neighborhoods.

**Motion by Councilmember Woods to approve item 5D2A; second by Vice Mayor Shekerjian. Motion passed on a roll call vote 6-0, with Councilmember Ellis abstaining.**

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**\*D2B.** Held the second and final public hearing and adopted **ORDINANCE NO. 2012.49B** for a Zoning Map Amendment from Agricultural District to General Industrial District for SOUTHWEST TEMPE REZONE located at 9010 South Priest Drive. The applicant is Huellmantel & Affiliates.

**Fiscal Impact:** While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

*The following condition of approval applies:*

1. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, the Owner(s) voluntarily waives any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than November 31, 2012 (effective date of ordinance), Zoning Map Amendment approval shall be null and void.

Councilmember Ellis declared a conflict of interest.

**Motion by Councilmember Woods to approve item 5D2B; second by Councilmember Navarro. Motion passed on a roll call vote 6-0-1, with Councilmember Ellis abstaining.**



## 6. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

Councilmember Woods

- Get-well wish to Chuck Lee, who is recovering from a heart attack.

Vice Mayor Shekerjian

- Received a nice email from a resident regarding staff response time to service calls at a City park; commended staff for high-quality service.

Councilmember Granville

- Thanked staff for responses to questions in advance of City Council meetings.
- Happy birthday wishes to his sister.

Councilmember Navarro

- Old Settlers event was a success; thanked the Old Settlers committee members.
- Get-well wish to Chuck Lee.
- Baby and Young Child Fair on Saturday, November 3, 2012 sponsored by the City Commitment to Schools Program.

Councilmember Arredondo-Savage

- Happy birthday wishes to her son.
- Expressed appreciation for veterans; Veterans Day Parade on Monday, November 12, 2012 at 9:00 a.m. on Mill Avenue; the memorial dedication will be at noon.

Mayor Mitchell

- Veterans Day Parade on November 12, 2012 at 9:00 a.m. on Mill Avenue; veterans' memorial dedication as part of the historic bridge abutment, the old Ash Avenue bridge.
- Get-well wish to Chuck Lee.

## 7. PUBLIC APPEARANCES

A. Scheduled – None.

B. Unscheduled

Haryaksha Knauer, Tempe, spoke regarding a Free Bradley Manning Thanksgiving Day half-marathon at Paradise Valley Town Hall, Thursday November 22, 2012 at 7:00 a.m.

The meeting adjourned at 8:59 p.m.

I, Brigitta M. Kuiper, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Formal City Council meeting of November 1, 2012, by the Tempe City Council, Tempe, Arizona.

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Mark W. Mitchell, Mayor

ATTEST:

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Brigitta M. Kuiper, City Clerk